

# Land Acquisition and Compensation Regulations

## Exposure Draft

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**Victoria**

## **Land Acquisition and Compensation Regulations**

### **Exposure Draft**

#### **Part 1—Preliminary**

##### **1 Objective**

The objective of these Regulations is to prescribe forms, information, fees and other matters for the purposes of the **Land Acquisition and Compensation Act 1986**.

##### **2 Authorising provision**

These Regulations are made under section 110 of the **Land Acquisition and Compensation Act 1986**.

##### **3 Commencement**

These Regulations come into operation on 21 June 2021.

##### **4 Revocation**

The Land Acquisition and Compensation Regulations 2010<sup>1</sup> are **revoked**.

## 5 Definitions

In these Regulations—

*allotment* means—

- (a) in respect of a lot of land for which a plan of subdivision under the **Subdivision Act 1988** has been registered, that lot; or
- (b) in respect of any other land, land of which a part cannot be sold, transferred or conveyed without the land being subdivided and for which a single certificate of title is or may be issued;

*the Act* means the **Land Acquisition and Compensation Act 1986**.

## **Part 2—Acquisition of interests in land**

### **6 Land not requiring reservation**

For the purposes of section 5(2) of the Act, the following are prescribed classes of land—

- (a) land to be acquired for a minor road widening or the deviation of a road if the land is only part of an allotment and—
  - (i) the area of the land to be acquired is less than 10 per cent of the total area of the allotment; and
  - (ii) the total value of the interest to be acquired is less than 10 per cent of the value of the unencumbered freehold interest in the total area of the allotment;
- (b) land over which an easement is to be acquired if the acquisition of that easement will not reduce the value of the unencumbered freehold interest in the allotment by more than 10 per cent.

### **7 Notice of intention to acquire interest in land**

For the purposes of sections 6 and 8(1)(a) of the Act, the prescribed form is Form 1 in Schedule 1.

### **8 Statement of rights and obligations to accompany statement of no intention to compulsorily acquire**

For the purposes of section 7(1)(b)(ii) of the Act, the prescribed form is Form 2 in Schedule 1.

### **9 Notice under section 7(6) of the Act**

For the purposes of section 7(6) of the Act, the prescribed form is Form 3 in Schedule 1.

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**10 Statement to accompany notice of intention to acquire**

For the purposes of section 8(2) of the Act, the prescribed form is Form 4 in Schedule 1.

**11 Information from municipal council**

For the purposes of section 9(2) of the Act, the prescribed information to be given to the Authority by a municipal council is—

- (a) any building permit or approval pursuant to which any construction on the land could be carried out, if that construction is not completed;
- (b) any construction on the land which, in the opinion of the council, is not in accordance with a building permit or approval or contravenes any regulation or local law administered by the council;
- (c) any plan of subdivision or consolidation in respect of the land or part of the land certified by the council under the **Subdivision Act 1988** in the 12 months before the date of the notice or any other such certified plan which, to the council's knowledge, has not been lodged with the Registrar of Titles under the **Subdivision Act 1988**;
- (d) any plan in respect of the land or part of the land re-certified by the council under the **Subdivision Act 1988** in the 12 months before the date of the notice or any other such re-certified plan which, to the council's knowledge, has not been lodged with the Registrar of Titles under the **Subdivision Act 1988**;

- (e) any works, plans, schemes or proposals which the council is carrying out or which it proposes to carry out in the 12 months following the date of the notice and which may affect the value of an interest in the land;
- (f) any works, plans, schemes or proposals which, to the council's knowledge, any Government department or public authority (other than the acquiring authority) proposes to carry out in the 12 months following the date of the notice and which may affect the value of an interest in the land;
- (g) any local law of the council which may affect the value of an interest in the land and any changes to such a local law which the council proposes to make at the date of the notice.

## **12 Information from responsible authority**

For the purposes of section 9(2) of the Act, the prescribed information to be given to the Authority by a responsible authority is—

- (a) any planning permit pursuant to which any use or development of the land may take place or any other matter or thing which may be done in respect of the land if that use has not commenced or that development is not completed or that matter or thing has not been done;
- (b) any use, development, matter or thing carried out or being carried out on or in respect of the land which, in the opinion of the responsible authority, is not in accordance with a planning permit or a planning scheme;

- (c) any amendment to a planning scheme applying to the land which may affect the value of an interest in the land, notice of which has been given in accordance with Part 3 of the **Planning and Environment Act 1987** but which has not been adopted or approved in accordance with Part 3 of that Act, if that amendment is not or would not be disclosed on a planning certificate;
- (d) any strategy, plan or other policy adopted by the responsible authority which does not form part of the planning scheme and which may affect the operation of the planning scheme applying to the land or the exercise of any discretion under the **Planning and Environment Act 1987** which may affect the value of an interest in the land.

**13 Prescribed fee—notice to Registrar of Titles**

For the purposes of section 10(1) of the Act, the prescribed fee is 4.4 fee units.

**14 Cancellation of notice of intention to acquire**

For the purposes of section 15(4)(a) of the Act, the prescribed form is Form 5 in Schedule 1.

**15 Statement to accompany notice of cancellation**

For the purposes of section 15(4)(b) of the Act, the prescribed form is Form 6 in Schedule 1.

**16 Notice of acquisition**

For the purposes of section 21(a) of the Act, the prescribed form is Form 7 in Schedule 1.

**17 Statement to be served with notice of acquisition**

For the purposes of section 22(b) of the Act, the prescribed form is Form 8 in Schedule 1.

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Part 2—Acquisition of interests in land

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**18 Warrant for possession of land**

A warrant issued to the Sheriff by an Authority under section 28 of the Act must be in the form of Form 9 in Schedule 1.

## **Part 3—Compensation for acquisition**

### **19 Statement to accompany offer of compensation under section 31(4)(c)**

For the purposes of section 31(4)(c) of the Act,  
the prescribed form is Form 10 in Schedule 1.

### **20 Notice of acceptance of offer of compensation**

For the purposes of section 34(1)(a) of the Act,  
the prescribed form is Form 11 in Schedule 1.

### **21 Notice of claim where interest in land acquired**

For the purposes of section 35(1)(a) of the Act,  
the prescribed form is Form 11 in Schedule 1.

## **Part 4—Measure of compensation**

### **22 Prescribed amount under section 45(1)(b)**

For the purposes of section 45(1)(b) of the Act,  
the prescribed amount is \$750 000.

## **Part 5—Compensation where no interest in land is acquired**

### **23 Form of claim where no interest in land is acquired**

For the purposes of section 48(1)(a) of the Act, the prescribed form is Form 12 in Schedule 1.

### **24 Statement to accompany reply by Authority**

For the purposes of section 48(4) of the Act, the prescribed form is Form 13 in Schedule 1.

## **Part 6—Powers of entry and temporary occupation**

### **25 Statement to accompany notice of entry**

For the purposes of section 74(2)(b) of the Act, the prescribed form is Form 14 in Schedule 1.

### **26 Statement to accompany notice of temporary occupation**

For the purposes of section 75(4)(d) of the Act, the prescribed form is Form 15 in Schedule 1.

## **Part 7—Determination of disputes**

### **27 Notice of referral of a dispute**

For the purposes of section 82 of the Act, the prescribed form is Form 16 in Schedule 1.

## Schedule 1—Forms

### FORM 1

Regulation 7

#### Land Acquisition and Compensation Act 1986

#### NOTICE OF INTENTION TO ACQUIRE

To: *[name and address of person(s) whose interest(s) in land are to be acquired]*

You are the holder of *[clearly specify the interest in the land intended to be acquired]*.

*[name of Authority]* intends to acquire your interest in the following land:

*[Set out title particulars and a description (including, if appropriate, a sketch) sufficient to identify the land to be acquired and the location of the land]*

\*The description of the land set out above refers to a document called *[name of document]*. A copy of this document can be inspected without charge at the Authority's office at *[address]* during the hours *[ordinary office hours]*.

The *[name of Authority]* has determined that acquiring the interest in the land described above is required for *[set out details of purpose for which land is to be acquired]*. The *[name of Authority]* thinks that the land is suitable for this purpose because *[set out reasons why the Authority thinks this is so]*.

The land—

\*is/\*is not reserved for a public purpose under \*a planning scheme/  
\**[specify planning scheme]*;

\*is in a class of land exempted from reservation under section 5(2) of the **Land Acquisition and Compensation Act 1986**;

\*has been certified by the Governor in Council as land which need not be reserved under section 5(3) of the **Land Acquisition and Compensation Act 1986**;

\*is in an area that has been declared under section 172(2) of the **Planning and Environment Act 1987**;

\*is in an area that has been declared to be special project land under section 201I(3) of the **Planning and Environment Act 1987**;

\*is under a work-in-kind agreement within the meaning of Part 9B of the **Planning and Environment Act 1987**;

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Schedule 1—Forms

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\*has been deemed to be reserved under section 5 of the **Land Acquisition and Compensation Act 1986** by another Act [*state relevant legislation; e.g. section 118(2) of the Major Transport Projects Facilitation Act 2009*].

At the present time it is expected that the [*name of Authority*] may require possession of the land on approximately [*date*]. This date may change.

The [*name of Authority*] requests you to provide it with information about the following—

- 1 The name of any other person who has, or you think may have, an interest in the land. (This person might be a tenant or a mortgagee or a person to whom you have agreed to sell the land.)
- 2 If you are aware of any current or unexpired building permit or approval or a planning permit concerning the land.
- 3 If you have sold or let or in any other way dealt with the land or were intending to deal with the land immediately before you received this notice.
- 4 If you are aware of any other person proposing to do any of those things referred to in paragraph 3, the details of which you are aware.
- 5 Any other matters of which you are aware that are relevant to the assessment by the [*name of Authority*] of what compensation you should receive for the land. (This information may include details of any mortgage, lease or other arrangement affecting the land. If you claim financial loss, please provide financial documents and other records to substantiate all losses.)

For and on behalf of the [*name of Authority*]:

Signed [*signature of authorised officer of the Authority*]:

Name [*name of authorised officer of the Authority*]:

Date:

\* Delete if not applicable.



**FORM 2**

Regulation 8

**Land Acquisition and Compensation Act 1986**

**STATEMENT OF RIGHTS AND OBLIGATIONS TO  
ACCOMPANY STATEMENT THAT AUTHORITY DOES NOT  
INTEND TO ACQUIRE INTEREST BY COMPULSORY  
PROCESS**

- 1 This statement accompanies the written statement made under section 7(1)(b)(i) of the **Land Acquisition and Compensation Act 1986** which tells you that the [*name of Authority*] does not intend to acquire your interest in the property by compulsory process in the next 12 months.
- 2 Although the [*name of Authority*] does not intend to acquire your interest in the property by compulsory process, the [*name of Authority*] may still want to talk to you about buying it with your agreement.
- 3 The statement that the [*name of Authority*] does not intend to acquire the interest by compulsory process is not an offer to buy your interest in the property. If the [*name of Authority*] does want to talk to you about buying your interest in the property by agreement, it is up to you whether to talk to the [*name of Authority*] or not. If you do decide to talk about selling, remember that the [*name of Authority*] may still decide at any time not to proceed.
- 4 The statement that the [*name of Authority*] does not intend to acquire the interest by compulsory process can only be revoked (withdrawn) if the Minister responsible for administering the **Land Acquisition and Compensation Act 1986** and the minister responsible for administering the [*insert special Act*] decide that that is in the public interest to do so. If it happens in your case, you will be notified.

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Form 3

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**FORM 3**

Regulation 9

**Land Acquisition and Compensation Act 1986**

**NOTICE TO REQUIRE AUTHORITY TO MAKE  
DETERMINATION**

To: [*name of Authority*]

\*I/\*We [*full name and address*] have an interest in

[*describe land in which you have an interest and which you and the Authority  
have been talking about*].

\*I/\*We ask you to determine within 60 days of the service of this notice  
whether you are going to serve—

- (a) a notice of intention to acquire \*my/\*our interest; or
- (b) the statements required under section 7(1)(b) of the **Land Acquisition  
and Compensation Act 1986** that you do not intend to acquire  
\*my/\*our interest by compulsory process.

Signed: [*signature of all persons named on form*]

Date:

\* Delete if not applicable.

**FORM 4**

Regulation 10

**Land Acquisition and Compensation Act 1986**

**STATEMENT OF PRINCIPAL RIGHTS AND OBLIGATIONS  
TO ACCOMPANY NOTICE OF INTENTION TO ACQUIRE  
INTEREST IN LAND**

**1 What is a notice of intention to acquire land?**

The attached NOTICE OF INTENTION TO ACQUIRE informs you that the [*name of Authority*] intends to acquire all or part of your interest in the land described in that notice.

The [*name of Authority*] has the power to acquire your interest in the land compulsorily or by agreement because of [*specify section and name of Special Act*].

In acquiring your interest in the land, the [*name of Authority*] must follow certain steps set out in the **Land Acquisition and Compensation Act 1986**.

Your land has either been reserved for a public purpose or the **Land Acquisition and Compensation Act 1986** permits the [*name of Authority*] to acquire your land without reservation.

In the case of your interest in land, the land is \*reserved for a public purpose in [*specify planning scheme*]/\*not required to be reserved because [*set out details of relevant exemption under section 5 of the Land Acquisition and Compensation Act 1986*].

**2 What does the notice do?**

The notice informs you that the [*name of Authority*] requires your land and at this stage intends to acquire it compulsorily or by agreement from you.

The notice is not an offer or agreement to buy the land and it does not mean that the [*name of Authority*] will definitely acquire the land.

**3 What you cannot do with the land**

Now that you have received the notice you must not, unless the [*name of Authority*] gives you permission—

- sell the land or any part of the land;
- give anybody any interest in the land (such as a lease, licence, easement, right of way, mortgage or covenant);

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Exposure Draft

Form 4

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- put any lasting improvements (such as a house or dam or swimming pool or undertake any other major renovations) on the land.

However, a person to whom you owe money under a mortgage for the land can still exercise any rights if you do not pay that person as you are required to do. You may discharge any mortgage if you wish.

**4 You have been asked for certain information**

The notice asks you to give the *[name of Authority]* certain information. This information will help the *[name of Authority]* work out who is to be compensated for the interest in the land and how much compensation should be paid.

**5 What happens if the land is acquired compulsorily?**

If the *[name of Authority]* decides to acquire your interest in land compulsorily, it must publish a notice of acquisition in the Victorian Government Gazette. It cannot publish a notice of acquisition until at least 2 months after the date it gave you the notice of intention.

If your land is acquired by notice of acquisition, the *[name of Authority]* will give you a copy of the notice and other information within 14 days of the acquisition.

**6 You may sell the land to the Authority by voluntary agreement**

If you wish to sell your interest in the land to the *[name of Authority]* by agreement rather than wait for the *[name of Authority]* to take the next step in the acquisition, you may be able to come to an agreement with the *[name of Authority]* as to the compensation to be paid for the land. If you want to do this, you should contact *[insert relevant contact details]*. If you do not want to do this, the *[name of Authority]* may take the next step towards acquiring the land.

You do not have to wait for this if you wish to sell to the *[name of Authority]*.

**7 Compensation**

If the land is acquired compulsorily by the *[name of Authority]* you may be able to claim compensation.

The amount of the compensation may include a sum for certain things which have affected you or the land as a result of the acquisition, for example, the special value of the land to you or losses you suffer because the *[name of Authority]* will not permit you to build on the land.

The compensation may also include an amount for some disadvantage or loss which cannot be assessed purely in terms of money.

You may also be able to claim compensation even if the *[name of Authority]* does not proceed to acquire your interest in the land.

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Form 4

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The **Land Acquisition and Compensation Act 1986** sets out the scope of compensation available; see Parts 3 to 5 of that Act.

**8 The notice may lapse**

In general, if the [*name of Authority*] has not acquired your land within 6 months of giving you the notice of intention to acquire, that notice will lapse, unless you agree that the [*name of Authority*] can have more time.

Section 106 of the **Land Acquisition and Compensation Act 1986** provides for extending and abridging time periods under that Act.

**9 The notice can be amended**

If any of the information on the notice of intention to acquire concerning your interest or the description of the land is wrong, the [*name of Authority*] can amend the notice if you agree. The notice of intention to acquire is still effective.

**10 The notice can be cancelled**

The [*name of Authority*] can cancel the notice of intention to acquire. If this happens, you will be sent a statement which explains what this means.

**11 If you received an earlier notice**

If you received an earlier notice of intention to acquire which lapsed or was cancelled, the new notice does not affect your right to make your claim for compensation within 2 years of the day on which the earlier notice lapsed or was cancelled.

**12 Professional advice and expenses**

As the process of acquisition can be complicated, you may want to obtain the help of a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the intended acquisition of your interest in the land can be claimed from the [*name of Authority*].

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Form 5

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**FORM 5**

Regulation 14

**Land Acquisition and Compensation Act 1986**

**CANCELLATION OR PARTIAL CANCELLATION OF  
NOTICE OF INTENTION TO ACQUIRE**

To: *[name and address of person(s) to whom notice of intention to acquire was given]*

- 1 The *[name of Authority]* on *[date notice of intention to acquire given]* gave you a notice of intention to acquire your interest in land.
- 2 \*This notice is to tell you that the *[name of Authority]* has determined that it does not want to go ahead with acquiring your interest in the land.  
  
or  
  
\*This notice is to tell you that the *[name of Authority]* has determined that it now intends to acquire a part of your interest in the land only. The part which the *[name of Authority]* still intends to acquire is *[insert description]* and is shown on the plan attached to this notice.
- 3 This notice is accompanied by a statement setting out your rights and obligations under the **Land Acquisition and Compensation Act 1986**.

For and on behalf of the *[name of Authority]*:

Signed *[signature of authorised officer of the Authority]*:

Name *[name of authorised officer of the Authority]*:

Date:

\* Delete if not applicable.

**FORM 6**

Regulation 15

**Land Acquisition and Compensation Act 1986**

**STATEMENT OF RIGHTS AND OBLIGATIONS TO ACCOMPANY  
STATEMENT OF CANCELLATION OR PARTIAL  
CANCELLATION OF NOTICE OF INTENTION TO ACQUIRE**

**1 What is the statement of cancellation about?**

The cancellation or partial cancellation of a notice of intention to acquire tells you that the [*name of Authority*] no longer intends to acquire all or part of your interest in certain land.

**2 If the statement cancels part of the notice of intention to acquire**

If it cancels only part of the notice of intention to acquire, the [*name of Authority*] still intends to acquire the part of your interest in the land which is described in the statement of cancellation as not affected by the cancellation.

**3 If the statement cancels the whole of a notice of intention to acquire**

If it cancels the notice of intention to acquire completely, then apart from working out whether you are entitled to claim compensation and the amount of compensation, the matter is finished and the acquisition will not go ahead.

If you wish to claim compensation, you must make your claim within 2 years from the day the statement of cancellation was served on you.

**4 Professional advice and expenses**

You may want to discuss the statement of cancellation with a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the notice of intention to acquire your interest in the land can be claimed from the [*name of Authority*].

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Form 7

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**FORM 7**

Regulation 16

**Land Acquisition and Compensation Act 1986**

**NOTICE OF ACQUISITION**

**COMPULSORY ACQUISITION OF INTEREST IN LAND**

The [*name of Authority*] declares that by this notice it acquires the following interest in the land described as [*insert description of land*]:

[*List interest(s) acquired*]

The acquisition is made pursuant to section [*insert section number*] of the [*Special Act*] for the purpose of [*state purpose, e.g., "road construction" or "the North East Link project" or "sewerage infrastructure"*].

A notice of intention to acquire the interest in the land was \*served on [*date*]/\*was not required under section 7(1) of the **Land Acquisition and Compensation Act 1986** because [*state relevant basis of exemption*].

\*[*insert any other declarations required to be included in the notice of acquisition by the relevant Special Act (e.g. section 114(b) of the Major Transport Projects Facilitation Act 2009.)*]

Published with the authority of the [*name of Authority*]:

[*Insert any map, diagram or plan of the land acquired that may assist in describing the land*]

For and on behalf of the [*name of Authority*]:

Signed [*signature of authorised officer of the Authority*]:

Name [*name of authorised officer of the Authority*]:

Date:

\* Delete if not applicable.



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**FORM 8**

Regulation 17

**Land Acquisition and Compensation Act 1986**

**STATEMENT OF RIGHTS AND OBLIGATIONS TO  
ACCOMPANY NOTICE OF ACQUISITION**

**1 What does the notice of acquisition do?**

You have been given a copy of a notice of acquisition. This notice was published in the Government Gazette on *[date]*. This means the *[name of Authority]* has compulsorily acquired all interests described in the notice and any person who had an interest in that land which was acquired by the notice is now entitled to claim compensation.

**2 You should get an offer of compensation within 14 days**

The *[name of Authority]* must make an offer of compensation to you within 14 days of *[date of acquisition and publication]* unless you agree to give the *[name of Authority]* more time or unless the Minister permits it to have more time to make an offer.

The offer must be fair and reasonable and will be based on a valuation and other information available at the time the offer is made.

**3 If you do not receive an offer**

If you think you had an interest in the land and you do not receive an offer from the *[name of Authority]*, you can make a claim to the *[name of Authority]* for compensation. You may want to seek advice from a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the acquisition of your interest in the land can be claimed from the *[name of Authority]*.

**4 What compensation is for**

The compensation will include amounts for the value of the land and may include amounts for any special value to you of the land acquired, any legal, valuation or other professional costs which you have to pay and compensation for disadvantage or loss to you which cannot be valued purely in terms of money. Compensation may also include an amount for disturbance (for instance if you have to move to other land) or an amount for the decrease in value of other land which you own and which is connected with the land which is acquired.

The **Land Acquisition and Compensation Act 1986** sets out the scope of compensation available when land has been acquired compulsorily; see Parts 3 and 4 of that Act.

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Form 8

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**5 A loan may be provided in certain circumstances**

If the [*name of Authority*] has acquired a house which you occupied as your principal place of residence, the [*name of Authority*] may provide you with a loan under certain circumstances in accordance with section 45 of the **Land Acquisition and Compensation Act 1986**.

**6 You will have time to consider the offer**

When you receive the offer from the [*name of Authority*] you will have 3 months to accept the offer or to claim compensation.

**7 Advance of compensation may be payable**

When you receive an offer you may have the full amount of the offer paid to you even if you later claim more compensation.

If you wish to do this, you must make a written request to the [*name of Authority*] when you receive the offer. An advance is not payable unless the offer is for \$5000 or more. If the advance paid is greater than the compensation finally determined you will have to repay the difference.

**8 Authority may take possession of the land**

The [*name of Authority*] is now able to enter the land, take possession and occupy it. The Authority will try to agree with you about possession. If the [*name of Authority*] wants to occupy the land and you live on the land as your principal place of residence or if it is your main place of business then you can continue to occupy the land for 3 months from the day the land was acquired rent-free unless—

- (a) you agree with the [*name of Authority*] to leave earlier; or
- (b) you leave the land earlier; or
- (c) the Governor in Council certifies that it is not practicable for the [*name of Authority*] to wait 3 months.

In any case, the [*name of Authority*] must give you at least 7 days written notice before it can take possession.

You may be permitted to stay longer than 3 months if the [*name of Authority*] permits you to remain.

If you have agreed to leave or if the 7 days notice has expired and you do not leave, you may incur extra costs for which you will not be compensated.

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Form 8

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**9 Professional advice and expenses**

You may want to discuss the notice of acquisition or this statement with a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the acquisition of your interest in the land can be claimed from the [*name of Authority*].

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Form 9

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**FORM 9**

Regulation 18

**Land Acquisition and Compensation Act 1986**

**WARRANT FOR POSSESSION**

To: The Sheriff

- 1 By the publication of a notice of acquisition in the Government Gazette published on [*date of publication of Government Gazette*] the [*name of Authority*] acquired an interest in land described below.
- 2 Since that date the [*name of Authority*] has complied with the requirements of the **Land Acquisition and Compensation Act 1986** concerning entry into possession and compensation for acquisition.
- 3 [*Name of person(s) refusing to give possession*] \*has/\*have refused to give up possession of the land or \*is/\*are hindering the [*name of Authority*] from entering upon and taking up possession of the land.

THEREFORE, under section 28 of the **Land Acquisition and Compensation Act 1986**

The [*name of Authority*] requires you to—

- (a) enter onto the land specified below; and
- (b) deliver possession of the land to the Authority or [*name of person authorised to receive possession*]; and
- (c) use such force as is reasonably necessary to execute this warrant.

*Description of land*

[*set out adequate description of land*]

Issued by the [*name of Authority*] under section 28 of the **Land Acquisition and Compensation Act 1986**.

Date:

\* Delete if not applicable.

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**FORM 10**

Regulation 19

**Land Acquisition and Compensation Act 1986**

**STATEMENT OF PRINCIPAL RIGHTS AND OBLIGATIONS  
TO ACCOMPANY INITIAL OFFER OF COMPENSATION**

**1 What this statement is about**

This statement accompanies an offer of compensation by the [*name of Authority*] because you had an interest in land which was compulsorily acquired.

You should also refer to the statement which came with the notice of acquisition given to you on [*date*].

**2 What to do with the offer**

Within 3 months after service of the offer of compensation, you must do one of the following—

- (a) accept the offer in full (complete Part A of Form 11—Response to offer of compensation); or
- (b) accept the offer in part and make a notice of claim for the part of the offer you do not accept (complete Part B of Form 11—Response to offer of compensation); or
- (c) reject the offer and make a notice of claim (complete Part C of Form 11—Response to offer of compensation).

If you do not reply within time, the [*name of Authority*] may assume that you reject the offer and dispute it. A dispute is determined by the Victorian Civil and Administrative Tribunal or by the Supreme Court.

If you need more time to decide what to do, you may ask the [*name of Authority*] for an extension. If the [*name of Authority*] will not let you have more time, you can ask the Minister responsible for administering the **Land Acquisition and Compensation Act 1986** for more time; see section 106 of that Act.

**3 Do you get interest?**

If you seek an extension of time to decide what to do, interest on compensation will not be paid during the extension of time.

If the Victorian Civil and Administrative Tribunal or the Supreme Court in determining a dispute awards you more than the [*name of Authority*] offered, you may be entitled to interest on the difference between the offer and the award.

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**4 Advance of compensation may be payable**

You may have the full amount of the offer paid to you within one month, even if you are claiming more than the offer.

To claim this advance, you must make a written request to [*name of Authority*].

An advance is not payable unless the offer is for \$5000 or more. If the advance paid is greater than the compensation finally determined you will have to repay the difference.

**5 If you do not agree with the valuation**

If you think the information which you have been given with the offer is incorrect, you may wish to consult a solicitor, valuer or other professional adviser.

**6 Expenses incurred**

Any reasonable expenses that you incur in conveyancing, valuations or in seeking professional advice because of the acquisition can be claimed as part of the compensation. You should keep a careful record of these expenses as the [*name of Authority*] may dispute the amount of such a claim.

**7 What happens with a disputed claim**

A dispute as to the amount of compensation payable to you by the [*name of Authority*] may be referred to the Victorian Civil and Administrative Tribunal or the Supreme Court to be determined if—

- (a) the [*name of Authority*] rejects your claim; or
- (b) the [*name of Authority*] does not reply to your claim within 3 months; or
- (b) you do not reply to the offer of compensation within 3 months (unless you have applied for and been granted an extension); or
- (d) you reject all or part of the offer.

**8 What a dispute will cost**

The costs of a dispute can be very high and you will not necessarily be compensated for these costs. The Victorian Civil and Administrative Tribunal or the Supreme Court may award whatever costs it thinks are proper, taking into account—

- (a) the amount finally awarded compared with the offer made;
  - (b) any unreasonable behaviour by you or the [*name of Authority*];
  - (c) any failure by you to give the [*name of Authority*] information it has requested;
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Form 10

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- (d) whether your claim is excessive;
- (e) whether the [*name of Authority*] made an offer which was unduly low;
- (f) other matters which the **Land Acquisition and Compensation Act 1986** permits to be taken into account in determining costs.

**9 You must produce title to the land**

When you claim compensation, the [*name of Authority*] may ask you to produce all documents which prove that you had an interest in the land. You must do this when asked.

**10 Professional advice and expenses**

You may want to discuss the offer of compensation or this statement with a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the acquisition of your interest in the land can be claimed from the [*name of Authority*].

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Form 11

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**FORM 11**

Regulations 20 and 21

**Land Acquisition and Compensation Act 1986**

**RESPONSE TO OFFER OF COMPENSATION**

Person(s) accepting offer or making claim: *[name(s)]*

Authority making offer or claimed from: *[name of Authority]*

Date offer was made:

How much offer is for: *[total amount of offer of compensation]*

The interest in the land of the person responding to offer *[give details of the interest you had in the land which was acquired, e.g. owner, tenant, mortgagee]*.

The person's entitlement to that interest is *[give details of your entitlement, e.g. if you are a tenant, particulars of your lease]*.

The following parts of this form should be read very carefully and all the parts which relate to your case must be completed. You should complete Part A, Part B or Part C below. Cross out those parts which do not apply to your case. You must complete the statement at the end of the form.

**\*Part A—Notice of acceptance**

*\*I/\*We accept the offer as full compensation for \*my/\*our land acquired by the [name of Authority].*

**\*Part B—Notice of acceptance in part and claim for further compensation**

*\*I/\*We accept the offer as compensation for \*my/\*our land acquired by the [name of Authority] but \*I/\*we want to negotiate about the following things [set out the things which you want to discuss with the Authority because you believe you should be given more compensation].*

**\*Part C—Rejection of offer in full and notice of claim for compensation**

*\*I/\*We dispute the amount of compensation which the [name of Authority] has offered and claim the sum of \$ [sum] for compensation made up as follows—*

*[Complete details of claim giving particulars of calculation of the claim. You should have regard to the following items—*

- market value of the interest in land;*
- special value of the land to you/the claimant;*
- loss attributable to severance;*



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- *loss attributable to disturbance;*
- *the enhancement or depreciation in value of your/the claimant's interest in land adjoining or severed from the acquired land at the date of the acquisition;*
- *all legal, valuation and other professional expenses necessarily incurred by reason of the acquisition of the interest in land.]*

If you dispute the value given to the land by the [name of Authority], you should attach to this form a copy of the certificate(s) of valuation which have been provided to you by a valuer in respect of his or her valuation of the land together with a statement advising how that valuation is calculated. If you have obtained more than one valuation, the same information should be provided in respect of each valuation.

YOU MUST COMPLETE THE FOLLOWING STATEMENT

\*I/\*We state that—

- 1 \*I am/\*we are the person(s) to whom the above offer of compensation was made. [If you are accepting or rejecting the offer or making a claim for compensation for somebody else under a power of attorney, you should state this.]
- 2 Immediately before the interest in land for which the offer was made was acquired, \*I was/\*we were able to sell/grant/release/lease the interest to the [name of Authority] free of any charges, mortgages, leases or other encumbrances or interests apart from those which \*I/\*we have told the [name of Authority].
- 3 \*I/\*we will give the [name of Authority] all documents which prove that \*I/\*we owned the land acquired/were entitled to the interest acquired.
- 4 \*I/\*we have not misled or failed to tell the [name of Authority] about anything within \*my/\*our knowledge which might affect the assessment of compensation.
- 5 \*I/\*we have received an advance of compensation of [amount of advance] on [date].  
or  
\*I/\*we have not received an advance of compensation from the [name of Authority].

AND \*I/\*we state this information is true and correct.

Signed:

Date:

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Signed by witness: [*signature*]

Name and address of witness:

\* Delete if not applicable.

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Form 12

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**FORM 12**

Regulation 23

**Land Acquisition and Compensation Act 1986**

**NOTICE OF CLAIM FOR COMPENSATION**

**(WHERE NO INTEREST IN LAND IS ACQUIRED)**

This form is to be used if land is not acquired but you believe you have a claim to compensation.

Person(s) making claim: *[name]*

Authority claimed from: *[name of Authority]*

IF AN OFFER WAS MADE, SET OUT DETAILS OF THE OFFER:

—date of offer

—amount of offer

—what the offer was for.

*\*I am/\*we are the [set out by what right you claim to be entitled to compensation, e.g. the person to whom a notice of intention to acquire was given and the Authority which gave that notice did not proceed with the process of acquisition].*

*\*I/\*we have suffered loss or expenses as follows: [set out full and complete details of your loss or expenses and how you calculated these and the time when they occurred].*

*\*I/\*We state that—*

- 1. \*I am/\*we are the person(s) entitled to make this claim.*
- 2. \*I/\*we have not misled or failed to tell the [name of Authority] about anything which might affect the assessment of compensation.*

AND *\*I/\*we state this information is true and correct.*

Signed:

Date:

Signed by witness: *[signature]*

Name and address of witness:

*\* Delete if not applicable.*

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**FORM 13**

Regulation 24

**Land Acquisition and Compensation Act 1986**

**STATEMENT OF PRINCIPAL RIGHTS AND OBLIGATIONS  
TO ACCOMPANY STATEMENT OF REPLY TO CLAIM FOR  
COMPENSATION**

**1 What is this statement for?**

You have made a claim for compensation to the [*name of Authority*]. This statement accompanies the statement of reply to your claim of compensation. This statement tells you what your principal rights and obligations are as a claimant.

**2 The statement of reply**

In the statement replying to your claim for compensation, the [*name of Authority*] has—

- (a) admitted your claim; or
- (b) made an alternative offer of compensation; or
- (c) rejected the claim.

**3 If the claim is admitted in full**

If the [*name of Authority*] has admitted your claim in full then you will be paid the amount of the claim.

**4 If the claim is not admitted in full**

If the [*name of Authority*] has not admitted your claim in full, it has either—

- (a) rejected your claim; or
- (b) admitted your claim in part, perhaps with matters specified as being subject to negotiation.

If the [*name of Authority*] has rejected your claim you may refer the claim to the Victorian Civil and Administrative Tribunal or to the Supreme Court. You may want to seek advice from a solicitor if you wish to do this.

If the [*name of Authority*] has admitted your claim in part, you may choose to either accept or reject the amount offered. You must do this within 2 months of receiving the statement of reply accompanying this statement.

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Form 13

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You can then negotiate on the specified matters. If you do nothing, you will be taken to have rejected the offer and the claim will be a disputed claim which will have to be determined by the Victorian Civil and Administrative Tribunal or by the Supreme Court.

If you need more than 2 months to decide what to do, you can ask the [*name of Authority*] for an extension of time. If it will not give you more time, you can ask the Minister for more time.

**5 Do you get interest?**

If you seek an extension of time in which to decide what to do, interest on compensation will not be paid during the extension.

If the Victorian Civil and Administrative Tribunal or the Supreme Court in determining a dispute awards you more than the [*name of Authority*] offered, you may be entitled to interest on the difference between the offer and the award.

**6 Advance of compensation may be payable**

You may have the full amount of the offer within one month, even if you later claim more than the offer.

If you wish to do this you must make a written request to [*name of Authority*].

An advance is not payable unless the offer is for \$5000 or more. If the advance paid is greater than the compensation finally determined you will have to repay the difference.

**7 What happens with a disputed claim**

The disputed claim will go to the Victorian Civil and Administrative Tribunal or the Supreme Court to be determined if—

- (a) the [*name of Authority*] rejects your claim; or
- (b) the [*name of Authority*] does not reply to your claim within 3 months; or
- (c) you do not reply to the statement of reply accompanying this statement within the 2 month period (unless you have applied for and been granted an extension); or
- (d) you reject all or part of the offer.

**8 What a dispute will cost**

The costs of a dispute can be very high and you will not necessarily be compensated for these costs. The Victorian Civil and Administrative Tribunal or the Supreme Court may award whatever costs it thinks are proper, taking into account—

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Form 13

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- (a) the amount finally awarded compared with the offer made; and
- (b) any unreasonable behaviour by you or the [*name of Authority*]; and
- (c) any failure by you to give the [*name of Authority*] information it has requested; and
- (d) whether your claim is excessive; and
- (e) whether the [*name of Authority*] made an offer which was unduly low; and
- (f) other matters which the **Land Acquisition and Compensation Act 1986** permits to be taken into account in determining costs.

**FORM 14**

Regulation 25

**Land Acquisition and Compensation Act 1986**

**STATEMENT OF RIGHTS AND OBLIGATIONS TO  
ACCOMPANY NOTICE OF INTENTION TO ENTER LAND**

**1 What is this statement for?**

The [*name of Authority*] has given you notice of intention to enter your land. This statement tells you about your rights and obligations and the rights and obligations of the [*name of Authority*].

**2 The Authority has a right to enter**

The [*name of Authority*] has the right to enter your land under section 74 of the **Land Acquisition and Compensation Act 1986**. The section authorises an Authority (or anyone it authorises in writing) to enter land and carry out work for the purposes of the [*name of Special Act*].

**3 What can be done to the land**

As well as entering the land, the [*name of Authority*] (or any person authorized) may—

- (a) remain on the land, with assistants, vehicles, machinery or equipment; and
- (b) set up trigonometrical stations, survey pegs, marks or poles and at any time alter or remove or replace them; and
- (c) dig or bore into the land and take samples of soil, rock, water or minerals.

**4 Authority must try to co-operate with you**

The [*name of Authority*] must try to co-operate with you and to cause as little harm or inconvenience or damage as possible and to leave the land, as nearly as possible, in the same state as before the occupation.

The [*name of Authority*] may only remain on the land for as long as is reasonably necessary. When it has finished, it must take away all plant, machinery, equipment, goods or buildings brought onto or erected on the land other than things that you agree may be left.

**5 You must co-operate with the Authority**

You must not obstruct the [*name of Authority*] (or its authorized person or the person's assistants) or interfere with any trigonometrical station, survey pegs, marks or poles. It is an offence under section 74(3) of the **Land Acquisition and Compensation Act 1986** to do so and penalties such as fines apply.

**6 Claim for compensation**

If you have suffered financial loss or have had to pay any expenses which arose as a direct consequence of the [*name of Authority*] occupying your land, you may claim compensation by giving the [*name of Authority*] a notice of claim for compensation.

Generally, a claim must be made within 2 years of the last time the [*name of Authority*] or a person authorized by it was on the land.

**7 You may be entitled to rent**

As well as any compensation, if you or someone else are entitled to receive rent from the land, the [*name of Authority*] must also pay rent for any period the Authority occupies the land.

The rent must be paid quarterly or half-yearly. The amount of the rent is to be agreed between you (or the person entitled to receive rent from the land) and the [*name of Authority*]. If you cannot agree, then the rent is to be fixed by the Victorian Civil and Administrative Tribunal or the Supreme Court.

**8 Professional advice and expenses**

You may like to discuss the notice of intention to enter land or this statement with a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the [*name of Authority*] entering your land can be claimed from the [*name of Authority*].



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**FORM 15**

Regulation 26

**Land Acquisition and Compensation Act 1986**

**STATEMENT OF PRINCIPAL RIGHTS AND OBLIGATIONS  
TO BE CONTAINED IN NOTICE OF INTENTION TO  
OCCUPY LAND TEMPORARILY**

**1 What is this statement for?**

This statement tells you about rights and obligations concerning temporary occupation of your land by the *[name of Authority]*.

**2 The Authority has a right to occupy temporarily**

The *[name of Authority]* has the right to occupy your land temporarily under section 75 of the **Land Acquisition and Compensation Act 1986**. The section authorises the *[name of Authority]* (or anyone it authorizes) to occupy certain land for as long as is necessary for the purposes of the *[name of Special Act]*.

**3 What land can be occupied**

The *[name of Authority]* can occupy any land except land which is used primarily for residential purposes. *\*[If the Authority is an Authority under clause 11 of Schedule 5 to the Road Management Act 2004.]*  
The *[name of Authority]* is a State road authority and is authorised to occupy any land including land used primarily for residential purposes.

**4 What can be done to the land**

As well as occupying the land, the *[name of Authority]* (or the authorized person) may—

- (a) dig and take clay, stone, gravel, earth or other substance from the land;
- (b) deposit any material on the land;
- (c) make cuttings or excavations on the land;
- (d) take timber from the land;
- (e) make and use roads on the land;
- (f) manufacture on the land any materials required;
- (g) erect workshops, sheds and buildings of a temporary character on the land.

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Form 15

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**5 Statement of material taken from land**

If the [*name of Authority*] takes any substance or timber from the land it must give you a monthly written statement of what is taken.

**6 Authority must try to co-operate with you**

The [*name of Authority*] must try to co-operate with you and to cause as little harm or inconvenience or damage as possible and to leave the land as nearly as possible in the same state as before the occupation.

The [*name of Authority*] may remain on the land only for as long as is reasonably necessary. When it has finished, it must take away all plant, machinery, equipment, goods or buildings brought on to or erected on the land other than things that you agree may be left.

**7 You can request Authority to fence off occupied land**

If you think that the land being occupied temporarily should be fenced, you should request this of the [*name of Authority*]. If it does not agree to this, you can ask the Minister to settle your disagreement and the Minister will decide what fences and gates are necessary for the convenient occupation and use of the land.

**8 Claim for compensation**

If you have suffered financial loss or have had to pay any expenses which arose as a direct consequence of the [*name of Authority*] occupying your land, you may claim compensation by giving the [*name of Authority*] a notice of claim for compensation.

Generally, a claim must be made within 2 years of the last time the [*name of Authority*] or a person authorized by it was on the land.

**9 Payment of rent by Authority**

As well as any compensation, if you or someone else are entitled to receive rent from the land, the [*name of Authority*] must also pay rent for any period the Authority occupies the land.

The rent must be paid quarterly or half-yearly. The amount of the rent is to be agreed between you (or the person entitled to receive rent from the land) and the [*name of Authority*]. If you cannot agree, then the rent is to be fixed by the Victorian Civil and Administrative Tribunal or the Supreme Court.

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**10 Professional advice and expenses**

You may wish to discuss the notice of intention to occupy land temporarily or this statement with a solicitor, valuer or other professional adviser. Reasonable expenses which you have to pay because of the temporary occupation of your land can be claimed from the [*name of Authority*].

\* Delete if inapplicable.

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Form 16

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**FORM 16**

Regulation 27

**REFERRAL OF DISPUTED CLAIM**

IN THE SUPREME COURT OF VICTORIA

AT MELBOURNE

No. of 20

IN THE MATTER of a referral of a disputed claim under section 80 of the **Land Acquisition and Compensation Act 1986** by [*name of applicant being party referring claim*] for determination by the Supreme Court.

**BETWEEN:**

[*name of applicant*]

Applicant

- and -

[*name of respondent*]

Respondent

NOTICE OF REFERRAL

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Date of Document:

Filed by:

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***Details of disputed claim***

The disputed claim is in respect of land described as [*set out a full description of the land and give full title particulars*].

The interest of the claimant in the land is: [*insert brief description of nature of interest e.g. owner, mortgagee in possession*].

Attached are copies of—

- (a) the notice of acquisition (if appropriate); and
- (b) the offer of compensation made by the acquiring Authority (if any); and
- (c) the claim made by the claimant; and
- (d) the reply (if any) of the acquiring Authority to the claim.

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Date:

*[Signed by applicant]*

Address for service:

*[Address of applicant]*

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## Endnotes

<sup>1</sup> Reg. 4: S.R. No. 44/2010.

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### Fee Units

These Regulations provide for fees by reference to fee units within the meaning of the **Monetary Units Act 2004**.

The amount of the fee is to be calculated, in accordance with section 7 of that Act, by multiplying the number of fee units applicable by the value of a fee unit.

The value of a fee unit for the financial year commencing 1 July 2020 is \$14.81. The amount of the calculated fee may be rounded to the nearest 10 cents.

The value of a fee unit for future financial years is to be fixed by the Treasurer under section 5 of the **Monetary Units Act 2004**. The value of a fee unit for a financial year must be published in the Government Gazette and a Victorian newspaper before 1 June in the preceding financial year.